



ACRO
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9th December 2008

Dear Chief Officer,

S & MARPER – EUROPEAN COURT RULING 4TH DECEMBER 2008

Lines to take

Following the above ruling it has become public knowledge that the European Court of Human Rights unanimously held in this particular case, against the retention of fingerprints and DNA of persons suspected but not convicted of offences. Accordingly, the Court determined that the retention in the case of S & Marper constituted a disproportionate interference with the individual's right to respect for private life and could not be regarded as necessary in a democratic society. Accordingly the Court concluded unanimously that there had been a violation of Article 8 in respect of this case (the right to respect for private and family life).

The Government is expected to provide a considered response to this ruling, which is currently under consideration by their Lawyers.

Whilst this judgement has gone against the Government, it does not have any impact on the current retention fingerprint and DNA policy until the law is changed by Parliament. It therefore follows that the current legislation and procedures remain unaffected by this ruling.

Individuals who consider that they fall within the ruling in the S & Marper case should await the full response to the ruling by Government prior to seeking advice and/or action from the Police Service in order to address their personal issues on the matter.

Once the legal interpretation has been established, further advice will be provided via the ACPO Criminal Records Office.

The European Court's judgements are accessible at <http://www.echr.coe.int>

Yours faithfully,

ACPO Criminal Records Office



National DNA Database Strategy Board

Chair: Mr. Gary Pugh
[redacted]
New Scotland Yard, London, SW1H 0BG
[redacted]

Telephone: [redacted] Facsimile: [redacted]

Dear Chief Constable

EUROPEAN COURT OF HUMAN RIGHTS – S & MARPER CASE

You will be aware of the above case, which challenges the legal right of the Police Service to retain Fingerprints, DNA Samples and Profiles taken at arrest where the subject is not convicted of the offence for which the samples were taken. S and Marper submit that this is a violation of their human rights under Articles 8 and 14 of the European Convention on Human Rights (ECHR).

This challenge currently sits with the Grand Chamber of the European Court of Human Rights (ECtHR) with a ruling expected around the end of November or early December 2008.

A number of strategy meetings have taken place with relevant stakeholders in readiness of the court ruling. I have tasked the ACPO Criminal Records Office (ACRO) to draw up action plans and process maps in readiness to respond to any ruling against HM Government. In the event of a violation ruling by the ECtHR, there may need to be detailed considerations given to the way DNA and fingerprints are retained in the future. During the consultation process, ACRO will be responsible for coordinating the response on behalf of the Police Service under the name [redacted]

In order to assist the ACRO team can I ask that each Force nominate a Single Point of Contact (SPOC) to act as the Force Liaison Officer. It is suggested that the SPOC has some knowledge of your Force Fingerprint Bureau, DNA and PNC related matters.

When identified, the SPOC should make contact with the ACRO [redacted] team via email [redacted] giving details of their name, force, email address together with office and mobile telephone numbers. It would be helpful to identify a Deputy SPOC who should also provide the same contact details.

In the meantime, [redacted] can be contacted on [redacted]

Yours faithfully

Gary Pugh
Chair of the National DNA Database Strategy Board